

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 16.10.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.765 of 2006

G.Boopathi

... Petitioner

Vs.

1.State of Tamil Nadu,
rep. by the Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Collector and
District Magistrate,
Vellore,
Vellore District.

... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records relating to the detention order passed by the second respondent pertaining to the order made in C3-DO 61/2006, dated 13.07.2006 in detaining the detenu under 2-b of Tamil Nadu Act 14 of 1982, as a Boot-legger and quash the same and direct the respondents to produce the detenu Boopathi, S/p Govindasamy aged about 33 years, who is detained at Central Prison, Vellore, before this Court and set him at liberty.

For Petitioner : Mr.O.S.Thilak Pasumbadiyar
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, by name Boopathi, who is detained as a "Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 13.07.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 21.07.2006 was received by the Government on 24.07.2006 and the remarks were called for on 25.07.2006 and the representation of the detenu was received from the Government on 26.07.2006 and the parawar remarks were called for from the Sponsoring authority on the same day i.e. on 26.07.2006 and the remarks were received from the sponsoring authority on 08.08.2006 and the Report was sent to the Government on 14.08.2006. Thereafter, the remarks were received by the Government on 18.08.2006 and the File was submitted and dealt with by the Under Secretary on the same day i.e. on 18.08.2006 and by the Joint Secretary on 19.08.2006. Finally, the Minister for Prohibition and Excise passed orders on 21.08.2006. The rejection letter was prepared on 22.08.2006 and the same was sent to the detenu on 23.08.2006 and served to him on 26.08.2006. As rightly pointed out by the learned counsel for the petitioner, though the parawar remarks were called for from the sponsoring authority on 26.07.2006, the remarks were received from the sponsoring authority by the Collectorate only on 08.08.2006 and there is no explanation at all for sending the remarks to the Collectorate belatedly. Even after receipt of the remarks from the sponsoring authority, the Collectorate had taken time till 14.08.2006 to forward the same to the Government. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for sending the remarks to the Collectorate and the Collectorate forwarding the same to the Government is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with some other case or cause.

gms

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. Secretary to Government,
State of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai-9.
2. The District Collector and District Magistrate,
Vellore, Vellore District.
3. The Superintendent, Central Prison, Vellore.
(In duplicate for communication to detenu)
4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.
5. The Public Prosecutor, High Court, Madras.

HCP. No.765 of 2006

pr(co)

bp/27.10



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